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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201				
			EXAMINER GROSS, KENNETH A	
			ART UNIT 2122	PAPER NUMBER 11
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/599,299

Applicant(s)

JAMES ET AL.

Examiner

Kenneth A Gross

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 and 64-96 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 and 64-96 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6-8.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on February 5th, 2004.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 94 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the rejection of Claim 94 is upheld. Claim 94 states the term "sorting the files according to average order in which the files were downloaded". The issue with this limitation is confusing because it implies that the files have already been downloaded, and sorting the files according to this order before the files are downloaded is a contradiction. Does the file usage statistics indicate how files were downloaded in the past? This needs to be clarified.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 82 is rejected under 35 U.S.C. 102(e) as being anticipated by Rowley (U.S. Patent Number 5,999,740).

For specific rejection of Claim 82, see the office action mailed on October 28th, 2003.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 8-20, 37-39, 42-46, 55, 57, 61, and 71-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of "Delphi 5 Developer's Guide", by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco).

In regard to Claim 1, Rowley teaches: (a) describing one or more software extensions configured for incorporation on a client, where describing includes defining one or more manifests containing a list of files comprising an extension (Column 2, lines 24-30); (b) delivering the one or more manifests to the client via the network, the one or more manifests being configured for use in downloading the software extensions via the network (Column 1, lines 40-50). Rowley does not teach that the software extensions are described using a hierarchical language. Iannucci, however, does teach a manifest file in the form of a web page, which is sent to the client for use in downloading a software extension (Column 5, lines 47-51). Neither Rowley nor Iannucci teach that the extensions are downloadable by streaming extension files to the client in a manner that enables a user to begin to interact with the extension sooner than if the user had to wait for the entire extension to load. Pacheco, however, does teach downloading “any type” of data to a client using streaming data files, which allows users to interact with the files while the file is downloading (Page 4, Paragraphs 1 and 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to describe one or more software extensions in one or more manifests containing a list of files comprising an extension, and deliver the one or more manifests to the client via the network, the one or more manifests being configured for use in downloading the software extensions via the network, as taught by Rowley, where the software extensions are described using a hierarchical language, since this allows the manifest file to take the form of a web page, and the extensions are downloaded as streaming extension files, as taught by Pacheco, since this allows a user to begin to interact with the extension as its downloading.

In regard to Claims 2-5 and 8-12, for specific rejections of Claims 2-12, see the office action mailed on October 28th, 2003.

In regard to Claim 13, Rowley teaches: (a) describing one or more software extensions configured for incorporation on a client, where describing includes defining one or more manifests containing a list of files comprising an extension (Column 2, lines 24-30). Rowley teaches that the manifest is used to determine which files are to be downloaded to a client, and hence assists in organizing the delivery of individual files that the client lacks (Column 1, lines 40-50). Rowley teaches comparing individual files in the manifest with the client system, and hence the manifest assists in validating the files to see which files need to be downloaded to the client (Column 1, lines 40-50). Rowley teaches updating an application by downloading individual files, where individual files in the client system are replaced with updated files (Column 7, lines 41-44); (b) delivering the one or more manifests to the client via the network, the one or more manifests being configured for use in downloading the software extensions via the network (Column 1, lines 40-50). Rowley does not teach that that software extensions are defined using XML. Innaucci, however, does teach a manifest file in the form of a web page, which is sent to the client for use in downloading a software extension (Column 5, lines 47-51). XML is a well-known and popular language for creating web pages. Neither Rowley nor Iannucci teach that the extensions are downloadable by streaming extension files to the client in a manner that enables a user to begin to interact with the extension sooner than if the user had to wait for the entire extension to load. Pacheco, however, does teach downloading “any type” of data to a client using streaming data files, which allows users to interact with the files while the file is downloading (Page 4, Paragraphs 1 and 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to describe one or more software extensions in one or more manifests containing a list of files comprising an extension, and deliver the one or more manifests to the client via the network, the one or more manifests being configured for use in downloading the software extensions via the network, validating individual files listed in the manifest, and updating individual files in the manifest, as taught by Rowley, where the software extensions are described using XML, since this allows the manifest file to take the form of a web page with XML features, and the extensions are downloaded as streaming extension files, as taught by Pacheco, since this allows a user to begin to interact with the extension as its downloading.

Claim 14 is a method claims that corresponds with Claim 13, and is rejected for the same reasons as Claim 13, where Rowley teaches a method carried out by the media of Claim 13 (Figure 2).

In regard to Claims 15-20, for specific rejections of Claims 15-20, see the office action mailed on October 28th, 2003.

In regard to Claim 37, Rowley teaches: (a) describing one or more software extensions configured for incorporation on a client, where describing includes defining one or more manifest files containing a list of files comprising an extension (Column 2, lines 24-30). Rowley does not teach that the manifest files are written in XML nor does he teach that the XML files are stored in a Web-accessible location. Innaucci, however, does teach a manifest file in the form of a web page, which is sent to the client for use in downloading a software extension (Column 5, lines 47-51). XML is a well-known and popular language for creating web pages. Furthermore, Innaucci teaches storing the manifest files in a Web-accessible location (Column 1,

lines 30-37). Neither Rowley nor Iannucci teach that the extensions are downloadable by streaming extension files to the client in a manner that enables a user to begin to interact with the extension sooner than if the user had to wait for the entire extension to load. Pacheco, however, does teach downloading “any type” of data to a client using streaming data files, which allows users to interact with the files while the file is downloading (Page 4, Paragraphs 1 and 2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to describe one or more software extensions configured for incorporation on a client, where describing includes defining one or more manifest files containing a list of files comprising an extension, as taught by Rowley, where the manifest file is written in XML and stored in a web-accessible location, as taught by Innaucci, since this allows for a greater number of users to access software upgrades and allows the manifest file to take the form of a web page with XML features, and the extensions are downloaded as streaming extension files, as taught by Pacheco, since this allows a user to begin to interact with the extension as its downloading.

In regard to Claims 38-39, and 42-46, for specific rejections of Claims 38-39, and 42-46, see the office action mailed on October 28th, 2003.

In regard to Claim 55, Rowley teaches a manifest file, which stores a list of files utilized in a software extension (Column 2, lines 24-30), and further teaches one or more file groups associated with files (Column 2, lines 25-28). Rowley does not teach that the individual files and file groups comprise tags indicate the individual files and file groups. Iannucci, however, does teach a manifest file in the form of a web page, which is sent to the client for use in downloading a software extension by listing links to specific packages to be downloaded (Column 5, lines 47-51). Typically, web pages are designed using HTML, a tag based language. Using tags to

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separate fields in a web page is an inherent aspect of HTML. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to build a data structure which stores a list of files utilized in a software extension and further teaches one or more file groups associated with files, as taught by Rowley, where the files and file groups are indicated by tags, which is an inherent aspect of HTML, which is obviously used to construct a web page manifest, as taught by Iannucci, since this allows the manifest file to take the form of a web page.

In regard to Claims 57 and 61, for specific rejections of Claims 57 and 61, see the office action mailed on October 28th, 2003.

In regard to Claim 71, Rowley teaches: (a) receiving one or more input parameters pertaining to a package manifest that is to describe a software extension that is configured to extend a software application on a client. Figure 8 shows a package manifest editor that accepts parameters to create a manifest; (b) generating a package manifest that describes the extension (Column 4, lines 57-60). Rowley does not teach that the manifest is described using a hierarchical language. Iannucci, however, does teach a manifest file in the form of a web page, which is sent to the client for use in downloading a software extension (Column 5, lines 47-51). Neither Rowley nor Iannucci teach that the extensions are downloadable by streaming extension files to the client in a manner that enables a user to begin to interact with the extension sooner than if the user had to wait for the entire extension to load. Pacheco, however, does teach downloading "any type" of data to a client using streaming data files, which allows users to interact with the files while the file is downloading (Page 4, Paragraphs 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to receive

one or more input parameters pertaining to a package manifest that is to describe a software extension that is configured to extend a software application on a client and generate a package manifest that describes the extension, as taught by Rowley, where the manifest is described using a hierarchical language, as taught by Iannucci, since this allows the manifest to take the form of a web page, and the extensions are downloaded as streaming extension files, as taught by Pacheco, since this allows a user to begin to interact with the extension as its downloading.

In regard to Claims 72-76, for specific rejections of Claims 72-76, see the office action mailed on October 28th, 2003.

7. Claims 21-24, 27, 28, 32, 36, 47, 49-51, 53, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Swank (U.S. Patent Number 4,641,274).

In regard to Claim 21, Rowley teaches a manifest file, which stores a list of files, utilized in a software extension (Column 2, lines 24-30), and further teaches one or more file groups associated with files (Column 2, lines 25-28). Rowley teaches selecting certain groups of files for downloading to form an application program, and hence, determining when files are downloaded based on which groups the files are in, since selecting a group of files determines that the group of files is to be downloaded to the client. Rowley does not teach that the manifests contain individual hashes for listed files. Swank, however, does teach storing a file hash for an individual file to be updated on a computer system (Column 3, lines 45-51). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to design a data structure, including stores a list of files utilized in a software extension, one or more file groups associated with files in the list, as taught by Rowley, and the manifests contain individual hashes for listed

files, as taught by Swank, since this allows for better security and integrity when updating computer files on a computer system.

In regard to Claims 22-24, 27, 28, 32, 36, 47, 49, and 50, for specific rejections for these claims, see the office action mailed on October 28th, 2003.

In regard to Claim 51, Rowley teaches receiving a package manifest containing a list of multiple files that comprise a software update of an older version of software (Column 1, lines 40-43) and comparing one or more files of an older version of a software extension with a newer version stored in a manifest, and if corresponding files are different, in that the manifest contains a file that does not contain a corresponding file on the client, the new file is downloaded from the web server. Rowley does not teach that the manifest contains hashes for one or more files comprising the newer version of the software extension, and wherein comparing includes comparing hashes of different versions of files. Furthermore, Rowley does not teach that if the corresponding hashes are the same, then copying a file from an old local directory to a new local directory on the client associated with the newer version. Swank, however, does teach using hashes to determine changes in files to determine if the files have been altered (Column 3, lines 34-51). It is possible of using this method of determining changes in files with hashes in Swank, with the determining of files needed to be downloaded to the client in Rowley, to teach the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to receive a list of files of a new version of software, and compare the new files to old files on the client, and if the corresponding files are different, downloading a new file from the web server, as taught by Rowley, where the comparing is done by comparing hashes, as taught by Swank, since hashes are effective ways of determining file integrity.

In regard to Claims 53 and 54, for specific rejections for these claims, see the office action mailed on October 28th, 2003.

8. Claims 25 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Swank (U.S. Patent Number 4,641,274) and further in view of Collins, III et al. (U.S. Patent Number 5,845,090).

In regard to Claims 25 and 29-31, for specific rejections for these claims, see the office action mailed on October 28th, 2003.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Swank (U.S. Patent Number 4,641,274) and further in view of Mastrianni et al. (U.S. Patent Number 6,615,276).

In regard to Claim 26, for a specific rejection for this claim, see the office action mailed on October 28th, 2003.

10. Claim 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Swank (U.S. Patent Number 4,641,274) and further in view of Staelin (U.S. Patent Number 5,835,777).

In regard to Claims 33-35, for specific rejections for these claims, see the office action mailed on October 28th, 2003.

11. Claim 64, 65, 67, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collins, III et al. (U.S. Patent Number 5,845,090) in view of Carpenter et al. (U.S. Patent Number 5,859,973).

In regard to Claims 64, 65, 67, and 68, for specific rejections for these claims, see the office action mailed on October 28th, 2003.

12. Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. (U.S. Patent Number 6,282,711) in view of Taylor (U.S. Patent Number 5,721,824).

In regard to Claim 69, Halpern teaches: (a) identifying end user features (Figure 2, item 2B-1); (c) creating individual software packages for end user features (Figure 2, item 5); and (e) hosting the software packages on a web server (Column 1, lines 15-20). Halpern does not teach identifying shared dependencies between the end user features and creating individual software packages for the shared dependencies. Taylor, however, does teach identifying shared dependencies between the end user features (Figure 2A, item 100) and creating individual software packages for the shared dependencies (Figure 3, item 129). Although neither Halpern nor Taylor teach that said both acts of identifying and creating are performed without user input, the act of automating an otherwise manual process is obvious and does not distinguish over prior art (See *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to identify end user features, create individual software packages for end user features and host the software packages on a web server, as taught by Halpern, where shared dependencies are identified between the end user features and creating individual software packages for the shared dependencies, as taught by Taylor, since this allows software to function once it is installed without the need for additional installs, where the method steps are performed without user input, since this allows for automatically executing the steps without user input.

13. Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halpern et al. (U.S. Patent Number 6,282,711) in view of Taylor (U.S. Patent Number 5,721,824) and further in view of Rowley (U.S. Patent Number 5,999,740).

In regard to Claim 70, for a specific rejection for this claim, see the office action mailed on October 28th, 2003.

14. Claim 86-90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey (U.S. Patent Number 4,910,663) in view of Kolawa et al. (U.S. Patent Number 5,761,408) and further in view of Collins, III et al. (U.S. Patent Number 5,845,090).

In regard to Claims 86-90, for specific rejections for these Claims, see the office action mailed on October 28th, 2003.

15. Claims 6, 40, 41, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of "Delphi 5 Developer's Guide", by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco) and Swank (U.S. Patent Number 4,641,274).

In regard to Claims 6, 40, 41, and 56, for specific rejections for these Claims, see the office action mailed on October 28th, 2003.

16. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of) "Delphi 5 Developer's Guide", by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco) and Miller et al. (U.S. Patent Number 5,195,183).

In regard to Claim 7, for a specific rejection for this claim, see the office action mailed on October 28th, 2003.

17. Claims 48 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Swank (U.S. Patent Number 4,641,274) and further in view of Iannucci et al. (U.S. Patent Number 6,219,698).

In regard to Claims 48 and 52, for specific rejections for these claims, see the office action mailed on October 28th, 2003.

18. Claims 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of “Delphi 5 Developer’s Guide”, by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco) and “The Component Object Model: A Technical Overview”, by Sara Williams et al., Microsoft Corporation, October, 1994 (hereinafter Williams).

In regard to Claims 58 and 59, for specific rejections for these Claims, see the office action mailed on October 28th, 2003.

19. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of) “Delphi 5 Developer’s Guide”, by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco) and Collins, III et al. (U.S. Patent Number 5,845,090).

In regard to Claim 60, for a specific rejection for this claim, see the office action mailed on October 28th, 2003.

20. Claim 66 rejected under 35 U.S.C. 103(a) as being unpatentable over Collins, III et al. (U.S. Patent Number 5,845,090) in view of Carpenter et al. (U.S. Patent Number 5,859,973) and further in view of Van Huben et al. (U.S. Patent Number 5,826,265).

In regard to Claim 66, for a specific rejection for this claim, see the office action mailed on October 28th, 2003.

21. Claim 77-80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of "Delphi 5 Developer's Guide", by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco) and Bailey (U.S. Patent Number 4,910,663).

In regard to Claims 77-80, for specific rejections for these Claims, see the office action mailed on October 28th, 2003.

22. Claim 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Iannucci et al. (U.S. Patent Number 6,219,698) and further in view of "Delphi 5 Developer's Guide", by Xavier Pacheco et al., Sams Publishing, 1999, Chapter 31, Section: Data Streaming (hereinafter Pacheco) and Kolawa et al. (U.S. Patent Number 5,761,408).

In regard to Claim 81, for a specific rejection for this Claim, see the office action mailed on October 28th, 2003.

23. Claims 83 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740).

In regard to Claims 83 and 85, for specific rejections for these Claims, see the office action mailed on October 28th, 2003.

24. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Bailey (U.S. Patent Number 4,910,663).

In regard to Claim 84, for a specific rejection for this Claim, see the office action mailed on October 28th, 2003.

25. Claims 91-93, 95, and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowley (U.S. Patent Number 5,999,740) in view of Collins, III et al. (U.S. Patent Number 5,845,090) and further in view of Bailey (U.S. Patent Number 4,910,663).

In regard to Claim 91, Rowley teaches sorting multiple files into multiple directories, where a directory is a file group (Column 2, lines 25-28). Rowley does not teach sorting multiple files based on scenario priority. Collins, however, does teach sorting data packages on a queue for downloading (Column 5, lines 35-37), and hence sorting prioritizing certain packages. Neither Rowley nor Collins teaches that is priority is a scenario priority nor do they teach sorting multiple files based on file usage order. Bailey, however, does teach ordering scenarios by priority (Column 8, lines 21-27). Bailey also teaches sorting test scenarios in order of coverage, which is the percentage of instructions in each file that get used (Column 1, lines 22-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to sort multiple files into file groups as taught by Rowley, sort multiple files based on priority, as taught by Collins, where the priority is scenario priority and to sort multiple files based on file usage order, as taught by Bailey, so that files that get used the most, have priority over less used files.

In regard to Claim 93, certain files are typically downloaded before other files, due to the critical nature of the files and necessity of downloading the files to aid in the installation of a complete application, and hence files that are of a more critical type will obviously be downloaded before other files, giving the critical files a higher priority.

In regard to Claims 92, 95, and 96, for specific rejections for these Claims, see the office action mailed on October 28th, 2003.

Response to Arguments

In regard to Claim 1, the applicant states that Iannucci's web page and link are not a manifest (Page 38, Paragraph 3) as defined in the specification. However, the web page sent to the user is a manifest because it contains a list, in the form of links, to packages that a user downloads that contain the software extensions. Even if it could be argued that the Iannucci reference does not disclose a manifest, it does teach a page written in hierarchical language which allows the downloading of software extensions from the network, where the page is a manifest, as taught by Rowley. As for the amendment of Claim 1, the Pacheco reference has been added to overcome the deficiencies of Rowley and Iannucci, and teaches streaming files.

In regard to Claims 13, 14, 37, and 71, the applicant argues that the amendment overcomes the deficiencies of Rowley and Iannucci with regard to streaming extension files which allow users on the client end to interact with the extensions while they are being downloaded. The Pacheco reference is introduced in the rejections of these Claims above to teach the new amended limitation. Pacheco teaches streaming files, which allow users to interact

with the files while they are being downloaded. The files, as taught by Pacheco, can be *any* type of data.

In regard to Claim 21, the applicant states that the examiner misread the claim, and interpreted the limitation “the file groups determining when particular files of the extension get downloaded to the client” as “the file groups determining *what* particular files of the extension get downloaded to the client”. While this is true, Rowley still does teach file groups that group files together, and allowing users to chose file groups to download, thus choosing when certain groups get downloaded. Secondly, the applicant claims that Swank is non-analogous art, because it does not teach delivering software extensions via the Internet. However, Swank is directed to downloading data from a server to a client (Figure 1) using a hash to determine changes in files to determine what to download to a client. This is comparable to downloading extensions from a server to a client using a hash to determine which files to download to the client.

In regard to Claim 51, the applicant argues that the examiner has misinterpreted the reference of Swank, and that Swank teaches comparing hashes and, if different, possibly acquiring the older version of the hashes so that the text in a old document can be updated. The examiner disagrees. Swank is introduced to show using hashes to determine changes in files to determine if the files have been altered. This is used to overcome the deficiency in Rowley, who does teach comparing old files with new files, and if the files are different, replacing the old files. Swank teaches the benefit of using hashes to make this comparison by comparing the hash of data in a file with a hash file, and if different, hen the file must have been altered.

In regard to Claim 55, the applicant argues that Rowley does not teach tags for specific file groups and tags for specific files. However, Rowley does teach that files are separated into

specific directories (Column 2, lines 25-28), which are file groups, and also target directories to which the files are installed, which is also another type of file group, and is present in the manifest.

In regard to Claim 47, the applicant argues that Swank does not have anything to do with receiving software extensions via the Internet, and rather has to do with improving communications by sending only changed lines in an updated file from a terminal to host (Page 50, Paragraph 2). Furthermore, the applicant says that Swank's hash process is directed to minimizing the amount of data that is sent between a terminal and host. Since Swank is unrelated to the invention, it cannot be used as prior art. However, Swank is directed to downloading data from a server to a client (Figure 1) using a hash to determine changes in files to determine what to download to a client. This is comparable to downloading extensions from a server to a client using a hash to determine which files to download to the client.

In regard to Claim 64, the applicant argues that Carpenter does not have to do with the client downloading anything; rather the queue management takes place with respect to transmissions made from the client (Page 54, Paragraph 4). However, the Carpenter reference was introduced to show that a feature of a queue could be user manipulation of the queue. This feature is useful for any application of a queue, and occurs independent of transmission to/from the client.

In regard to Claim 69, the applicant argues that Halpern requires end user input, which teaches away from the newly amended claim that the method steps of Claim 69 occur independent of user input. However, as stated in the rejection above, automating a manual process does not distinguish an invention over prior art. The MPEP, in section 2144.04 Section

III, states: “The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art” (*In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)).

In regard to Claim 82, the applicant states that the “read only” flag as taught in Rowley, is not a file usage statistic. However, a “read only” flag is a statistic because it dictates *how* a file is used.

In regard to Claim 86, the applicant argues that neither Bailey nor Kolawa is concerned with downloading software extensions via the Internet. Bailey is concerned with testing software and Kolawa is concerned with generating test suites. The references are introduced, however, to teach assigning files to scenarios that describe ways a user interacts with a software application program and assigning priorities to the scenarios. Collins teaches placing software packages in a queue for downloading, thus sorting the packages in an order for downloading, where this order is taught in Bailey as a certain scenario priority order.

In regard to Claim 91, the applicant argues that Collins does not teach “sorting multiple files based on scenario priority of the one or more scenarios in which each file can be placed”. Bailey, however, does teach sorting scenarios by priority, and Collins does teach sorting packages on a queue for downloading, and hence it would be obvious to combine to two references, since downloading more often used files means that users receive the files needed the most.

Conclusion

26. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

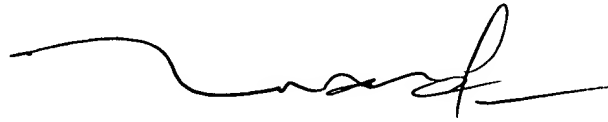
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542. The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KAG



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SUPERVISORY PATENT EXAMINER